



Signed and Filed: February 3, 2023

Lewis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

ORDER DENYING MOTIONS TO ALLOW LATE CLAIMS

On January 10 and 25, 2023, the court held hearings on a number of motions to deem late filed proofs of claim as timely ("Late Claim Motions"). The individual claimants' information associated with the Late Claim Motions are attached to this Order as an Exhibit.

All movants are Wildfire Claimants, as defined below.

While the Fire Victim Trust ("FVT") objected to each of the Late

1 Claim Motions individually (Dkts. 13385; 13353; 13351; 13388;
2 13336; 13372; 13407; 13399; 13424; 13429; 13431; 13433; 13435)
3 ("Objections"), the court issues this Order addressing all of
4 the Late Claim Motions in the style of an omnibus objection.
5 See Fed. R. Bankr. Pro. 3007(d)(4) and (f). For the reasons
6 explained below, the court sustains the FVT's Objections and
7 denies the Late Claim Motions.

8 **I. History of Claims Bar Date**

9 No claims bar date was set for any creditor at the outset
10 of these bankruptcy cases, which were initiated on January 29,
11 2019. On May 1, 2019, now-Reorganized Debtors PG&E Corporation
12 and Pacific Gas and Electric Company ("Debtors") originally
13 proposed a claims bar date of September 16, 2019 for victims of
14 the wildfires that ravaged various parts of Northern California
15 in 2015, 2017, and 2018 ("Wildfire Claimants") (Dkt. 1784).
16 Debtors also proposed a robust supplemental notice plan starting
17 at least 95 days prior to that bar date to ensure that Wildfire
18 Claimants, many of whom had almost certainly been displaced by
19 the wildfires, would receive notice of the claims bar date.

20 The proposed claims bar date was hotly contested (See
21 objections to the proposed claims bar date at Dkts. 2043, 2238,
22 2239, 2240, 2242, 2248, 2306, 2307, 2308, 2316, 2321, 2324,
23 2326, 2346, 2453), with the Tort Claimants Committee requesting
24 an alternative claims bar date of January 31, 2020. Debtors
25 subsequently amended the proposed claims bar date to October 21,
26 2019.

27 At a hearing on June 26, 2019, the court granted the
28 Debtors' modified claims bar date proposal. The court's Order

1 (Dkt. 2806) establishing the bar date incorporated the Debtors'
2 Revised Notice Procedures that included: mailed notices (as is
3 typical and required in all bankruptcy cases); email notices;
4 notice via a variety of print media publications; online
5 advertisements; social media advertisements; local television
6 and radio advertisements in both English and Spanish; national
7 television advertisements to reach those who may have moved out
8 of state; a dedicated website for Wildfire Claimants; and a
9 toll-free phone number for Wildfire Claimants. This multi-
10 pronged approach targeted, in descending order: those still
11 living in affected areas of Northern California, the rest of
12 California, and the rest of the nation.

13 On November 11, 2019, the court entered the *Order Extending*
14 *Bar Date for Wildfire Claimants and Appointing Claims*
15 *Representative* (Dkt. 4672), extending the bar date specifically
16 for Wildfire Claimants to December 31, 2019, and appointing a
17 Claims Representative to conduct further outreach and assist
18 Wildfire Claimants in filing claims. By the end of the extended
19 claims bar date, 82,692 Wildfire Claimants filed timely proofs
20 of claim.

21 After the extended bar date passed, the FVT took an
22 apparent stance of acquiescence or non-opposition to requests
23 from Wildfire Claimants to allow late claims. In 2020, 55 late
24 claims were filed and were not opposed. In 2021, 22 late claims
25 were filed and were not opposed.

26 Beginning in late 2022, the number of late claims
27 dramatically increased, which prompted the FVT's Objections.
28 That response, made in open court and in several filings, was

1 that the FVT would no longer take a liberal non-opposition
2 stance to late claims filed after September 30, 2022, and that
3 “[t]he Trust’s policy of non-opposition was never a guarantee
4 that every late claim motion would be unopposed, and the
5 Trustee’s statements regarding the need to reconsider that
6 policy were intended to clarify this and alert claimants and
7 counsel to the Trust’s transition to stricter review of late
8 claim motions.”

9 **II. Discussion**

10 A bankruptcy court may, on motion of a claimant, deem a
11 late claim to be timely filed if the delay “was the result of
12 excusable neglect.” Fed. R. Bankr. Pro. 9006(b) (1). The
13 decision regarding whether a late claim was the result of
14 excusable neglect “is at bottom an equitable one, taking account
15 of all relevant circumstances surrounding the party’s omission.”
16 *Pioneer Inv. Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380, 395 (1993). Some circumstances
17 include “the danger of prejudice to the debtor, the length of
18 the delay and its potential impact on judicial proceedings, the
19 reason for the delay, including whether it was within the
20 reasonable control of the movant, and whether the movant acted
21 in good faith.” *Id.* The court may weigh each these factors in
22 its discretion.

24 There is no argument regarding the good faith of any of the
25 parties who filed the Late Claim Motions. Nor does either the
26 court or the FVT question the nature and extent of the damages
27 alleged by movants. The proceeding that may be impacted by
28 allowance of the Late Claims Motions is the general

1 administration of the FVT in determining claims and making
2 distributions thereon.

3 The only equitable factors the court considers here are the
4 prejudice to the FVT¹ and whether the delay was in reasonable
5 control of the movants.^{2, 3}

6 First, the court finds that granting the Late Claim Motions
7 would prejudice the FVT and other Wildfire Claimants who have
8 timely filed proofs of claim. According to the FVT, the Trust
9 simply is not fully funded, the stock contributed to the FVT by
10 the Debtors is not performing as well as expected (despite
11 recent increases in value), and there may not be enough money in
12 the Trust to administer 100% payments to Wildfire Claimants who
13 timely filed proofs of claim, let alone those requesting to have
14 their late claims deemed timely now. The FVT may also be
15 prejudiced by the additional expenditures of time and effort
16 required of the FVT and its administrators to recalculate the

18 ¹ The FVT is the representative of each of the Debtors' estates
19 regarding administering, objecting to, and settling the claims
20 of Wildfire Claimants pursuant to the Paragraph 18(e)(iii) of
the court's Confirmation Order (Dkt. 8053).

21 ² An additional argument presented at the hearing on January 10,
2023 posited that a recent amendment to Federal Rule of
22 Bankruptcy Procedure 3002(c)(3) may more easily allow for the
allowance of late-filed claims. The amended Rule does not apply
23 to claims in chapter 11 cases—only those claims filed
bankruptcies filed under chapters 7, 12, or 13. Late claims
24 filed in bankruptcies filed under chapter 11 are governed by
Federal Rule of Bankruptcy Procedure 3003, which has not been
25 recently amended.

26 ³Another suggestion also presented at the hearing on January
10, 2023 proposed the creation of a new “pool” with cap on
27 distributions for late claimants. The court has no authority to
append the process of the FVT, which was created as part of a
28 hard-fought confirmation process, in such a manner.

1 projections and calculations made to ensure an equal pro rata
2 distribution to all Wildfire Claimants, including those already
3 paid. While each of the Late Claim Motions stresses the minimal
4 impact any individual claim may have on the administration of
5 the FVT, the court must balance the equities affecting the FVT
6 as a whole. Taking the Late Claim Motions in the aggregate, the
7 impact on administration is more than de minimis and would
8 prejudice the FVT.

9 Next, the court finds that no movant has described
10 circumstances that would explain why the failure to file a claim
11 for over two and a half years constitutes excusable neglect.
12 Almost uniformly, each movant describes circumstances that
13 amount to a lack of realization that their particular
14 circumstances could be compensated, or skepticism regarding the
15 claims process generally, but not lack of notice regarding the
16 extended bar date.

17 Due process requires notice of the opportunity to file a
18 claim. That notice was provided to movants and has not been
19 shown to be deficient under the law or in the context of these
20 cases. Due process does not require that each claimant be made
21 aware that his or her particular damages may constitute the type
22 of claim that might have been filed.

23 One movant who chose to speak at the hearing on January 25
24 described potential medical issues that did not manifest
25 themselves until after the extended claims bar date had passed.
26 However, the underlying claim and motion (Dkt. 13404) allege
27 injuries, such as smoke damage that were felt immediately after
28 the fire and also describe the same issue detailed by most other

1 movants as to why a claim was not timely filed; a belief that
2 the particular damages suffered by movant and her family would
3 not have been compensated.⁴

4 The court reiterates, as it explained in its prior Order
5 Denying Motions to Allow Late Claims (Dkt. 13377), that the
6 Debtors engaged in a comprehensive campaign to provide notice to
7 Wildfire Claimants in the North Bay, California, and across the
8 United States. The Debtors could not control whether claimants
9 chose not to believe or to heed those notices, nor was it the
10 Debtors' duty to ensure every known and unknown Wildfire
11 Claimant's full understanding of every type of injury that could
12 be compensated via the proof of claim process. It also does not
13 appear there was a widespread misunderstanding regarding what
14 types of injury could be compensated via a proof of claim: every
15 type of injury described in the Late Claim Motions is listed as
16 a checkbox on the Proof of Claim form for Wildfire Claimants,
17 and all were listed as injuries by Wildfire Claimants who timely
18 filed proofs of claim.

19 **III. Conclusion**

20 For the reasons stated above the court hereby SUSTAINS the
21 Objections of the FVT and DENIES the Late Claim Motions. The
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23 ⁴ In the Ninth Circuit, even potential claims that might be in
24 the fair contemplation of the parties represents a contingent
25 claim subject to the established claims bar date of a
bankruptcy. See *In re Jensen*, 995 F.2d 925, 929-30 (9th Cir.
1993). While the court makes no determination whether the
issues described by movant would be deemed a pre-petition
contingent claim, the court still notes that injuries that do
not become apparent until much later are not necessarily excused
from the extended claims bar date.

1 Late Claim Motions shall not be deemed timely filed and are thus
2 disallowed.

3 ****END OF ORDER****

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